

Parametrix, Inc.

Kirkland, WA

Thank you for this opportunity to offer comments on the proposed Industrial Stormwater General Permit. The March 2002 draft permit reflects a significant amount of work and thought, and strikes us as an improvement over the previous permit issued October 4, 2000. However, with any such effort to provide effective, consistent, and balanced environmental protection, there are areas where we feel that the permit can be revised and clarified.

Conditions Allowing Suspension of the Monitoring Requirement

The proposed permit requires that permit holders regularly monitor storm water discharged from their property/operations to compare with a series of benchmark values (Special Conditions S3 and S4). Facilities that consistently attain benchmark values (meaning less than or equal to these values) in their storm water over eight consecutive quarters are allowed to suspend monitoring (Special Condition S4). While we support the intent of these conditions, we strongly believe that the stated conditions for achieving consistent achievement could be overly restrictive, and could result in unnecessary monitoring for facilities that can exceed the benchmark values but achieve water quality standards at the required point of compliance.

As stated in the permit, the benchmark values themselves do not constitute water quality standards, and are only considered indicative of whether the stormwater could cause a water quality violation. Examination of the derivation of benchmarks reveals that they are derived from a variety of sources (USEPA 2000), some of which have no relevancy to environmental harm. For example, the oil and grease benchmark was based in the median value detected in the National Urban Runoff Program (NURP), and is not based on any potential negative effect on aquatic life, nor does it consider the effects of mixing. In contrast, Washington State Surface Water Quality Standards (WQS) (as embodied in WAC 173-201A) are based on toxicity studies that identified concentrations protective of aquatic life.

While we do not contest the use these benchmarks to identify facilities that can suspend monitoring, we do believe that facilities that can demonstrate compliance with Surface Water Quality Standards at the edge of the assigned mixing zone for eight consecutive quarters should also be allowed to suspend monitoring. Adding this provision to Special Condition S4 will help this program achieve environmental quality will helping to reduce the economic impact of this program on the regulated facilities. We urge you to extend the permit language describing “consistent attainment” to include this definition.

Waters of the State

The current draft stormwater general permit makes several references to waters of the state (e.g., S1 A, first paragraph, S1 E first paragraph, and S3 A, first paragraph). While a definition for waters of the state has been provided in both the permit (See p. 55 and 56) and the fact sheet (see Appendix B p 6), we believe further clarification is necessary. This is particularly important for stormwater which is captured and conveyed in a multitude of different ways ranging from stormwater systems to puddles and drainage channels. Do waters of the state include any water in man-made or man-altered channels and ditches such as those constructed for drainage along side roads, or those designed specifically for agricultural drainage? Is drainage considered a beneficial use? Do waters of the state include ponds resulting from historical activities such as gravel excavation or peat mining? Do waters of the state apply to channels and ditches specifically constructed to convey stormwater to detention facilities? Is it implicit that these

conveyance systems be closed pipes rather than open channels to ensure they not be considered waters of the state? Without a clear definition of what constitutes waters of the state, it is not clear where the point the discharge ends and the waters of the state begin (i.e., is the point of discharge at the end of a pipe or is it at the end of a conveyance channel discharging into waters of the state?).

Furthermore, the terms “waters of the state”, “surface water”, and “receiving water” seem to be used interchangeably. For example, under section S4 A. the first sentence reads “. . . all facilities must conduct quarterly monitoring of authorized discharges of stormwater to surface water.”

Are the surface waters referred to here considered waters of the state, receiving waters, or any surface water including those discussed above for the purposes of stormwater conveyance. The fact attempts to clarify with a description of receiving water (page 24). However, it is still not clear whether a distinction is being made between a receiving water and waters of the state (or are they the same thing) and whether supporting beneficial uses is what ultimately governs the definition of either.

Clarification of these terms would help avoid confusion in the design of sampling programs, and make the conditions and requirements for the permit holders more readily interpretable.

WET Testing

It is of concern to us that the permit implicitly discourages the use of whole effluent toxicity (WET) testing as an additional tool to evaluate compliance with water quality standards (see fact sheet page 26). It has been our experience that WET testing is an important component for determining compliance with the narrative criteria, particularly for stormwater where complex site-specific conditions reduce chemical bioavailability and hence toxicity. Furthermore, the results of WET tests can be instrumental in evaluating the merits of conducting a site-specific study to provide the “...case-by-case” information the permit refers to (i.e., what are the appropriate numeric water quality standards that apply). Rather, we would like to see some reference to WET testing in the permit itself, rather than have the discussion buried in the fact sheet.

On-Line Monitoring Data

During the May 13 Bellevue workshop, you indicated that the Permit holders’ stormwater monitoring data would be made available to the public through the Department of Ecology website. While we support public accessibility to monitoring data, we believe that general posting of monitoring data on the internet is inadvisable. General posting of monitoring data could conceivably encourage legal action against small businesses that can ill-afford legal fees to defend or settle such action. Furthermore, it may require more response action (legal testimony and paperwork) on behalf of already-taxed Ecology staff. If monitoring data identifies dischargers who need to implement additional BMPs, this would be best handled by cooperative action between Ecology and the permit-holder, which is certainly more in keeping of the spirit in which the permit was written.

Thank you for this opportunity to provide these comments. Please feel free to contact either of us if there is any additional information or explanation we could provide you concerning these issues.

Reference:

United States Environmental Protection Agency (USEPA). 2000. Final Reissuance of National Pollutant Discharge Elimination System (NPDES) Storm Water Multi-Sector General Permit for Industrial Activities; Notice. Federal Register, 65(210). pp. 64746-64794. October 30, 2000.